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Chicago Teachers Union and John Kugler. Cases
13–CA–207629 and 13–CA–213316

December 12, 2018

DECISION AND ORDER

BY CHAIRMAN RING AND MEMBERS MCFERRAN
AND KAPLAN

The General Counsel seeks a default judgment in this case on the ground that the Respondent failed to file an answer to the complaint. Upon charges filed by John Kugler on October 6, 2017, and January 18, 2018, the General Counsel issued a consolidated complaint (the complaint) on May 7, 2018, against Chicago Teachers Union (the Respondent), alleging that it has violated Section 8(a)(1) of the National Labor Relations Act. The Respondent failed to file an answer.

On July 9, 2018, the General Counsel filed with the National Labor Relations Board a Motion for Default Judgment. Thereafter, on July 10, 2018, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

On the entire record, the National Labor Relations Board makes the following

Ruling on Motion for Default Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in a complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively stated that unless an answer was received by May 21, 2018, the Board may find, pursuant to a motion for default judgment, that the allegations in the complaint are true. Further, the undisputed allegations in the General Counsel's motion disclose that the Region, by letter dated June 19, 2018, advised the Respondent that unless an answer was received by June 26, 2018, a motion for default judgment would be filed. The Respondent failed to file an answer.

In the absence of good cause being shown for the failure to file an answer, we deem the allegations in the complaint to be admitted as true, and we grant the General Counsel's Motion for Default Judgment.

On the entire record, the Board makes the following

FINDING OF FACT

I. JURISDICTION

At all material times, the Respondent, a labor organization, has been an unincorporated association with a place of business in Chicago, Illinois, where it represents employees in bargaining with employers.

During the past calendar year, a representative period, the Respondent purchased and received goods valued in excess of \$50,000 directly from points outside the State of Illinois.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and that Professional Staff Employees Union (PSEU), a unit of Health Care, Professional, Technical, Office, Warehouse and Mail Order Employees Union, Local 743, IBT, is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

At all material times, Jesse Sharkey has held the position of the Respondent's vice-president and has been a supervisor of the Respondent within the meaning of Section 2(11) of the Act and an agent of the Respondent within the meaning of Section 2(13) of the Act.

The following events occurred, giving rise to this proceeding.

1. At all material times, the Respondent has maintained a rule prohibiting employees from conducting union business on behalf of PSEU during work time.

2. On October 4, 2017, the Respondent, by Jesse Sharkey, in an email, enforced the rule described above selectively and disparately by applying it only against employees who filed unfair labor practice charges against the Respondent.

3. On January 18, 2018, the Respondent, by Jesse Sharkey, in an email, threatened to retain legal counsel and pursue unfair labor practice charges against PSEU because employees engaged in union and protected concerted activities.

CONCLUSION OF LAW

By the conduct described above in paragraphs 2 and 3, the Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act. The Respondent's unfair labor practices described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to

effectuate the policies of the Act. Specifically, having found that the Respondent violated Section 8(a)(1) by selectively and disparately enforcing a work rule and threatening employees because they engaged in union and protected concerted activities, we shall order the Respondent to rescind both the October 4, 2017 email selectively and disparately enforcing its work rule, and the January 18, 2018 email threatening to retain legal counsel and pursue unfair labor practice charges against PSEU.

ORDER

The National Labor Relations Board orders that the Respondent, Chicago Teachers Union, Chicago, Illinois, its officers, agents, successors, and assigns shall

1. Cease and desist from

(a) Selectively and disparately enforcing a rule prohibiting employees from conducting union business on work time by applying it only against employees who filed unfair labor practice charges against it.

(b) Threatening to retain counsel and pursue unfair labor practice charges against PSEU because employees engaged in union and protected concerted activities.

(c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Rescind the October 4, 2017 email selectively and disparately enforcing a rule prohibiting employees from conducting union business on work time.

(b) Rescind the January 18, 2018 email threatening to retain legal counsel and pursue unfair labor practice charges against PSEU because employees engaged in union and protected concerted activities.

(c) Within 14 days after service by the Region, post at its facility in Chicago, Illinois, copies of the attached notice marked "Appendix."¹ Copies of the notice, on forms provided by the Regional Director for Region 13, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means.

¹ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since October 4, 2017.

(d) Within 21 days after service by the Region, file with the Regional Director for Region 13 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. December 12, 2018

John F. Ring, Chairman

Lauren McFerran, Member

Marvin E. Kaplan, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE

NATIONAL LABOR RELATIONS BOARD

An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT selectively and disparately enforce our work rule prohibiting you from conducting union business during work time by applying it only against employees who filed unfair labor practice charges against us.

WE WILL NOT threaten to retain legal counsel and pursue unfair labor practice charges against the Union because employees engaged in union and protected concerted activities.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL rescind the October 4, 2017 email we sent to employees about violating our rule prohibiting employees from conducting union business during work time.

WE WILL rescind the January 18, 2018 email we sent to employees threatening to retain legal counsel and pursuing unfair labor practice charges because employees engaged in union and protected concerted activities.

CHICAGO TEACHERS UNION

The Board's decision can be found at www.nlr.gov/case/13-CA-207629 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

